



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 1462-96  
13 April 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 March 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Marine Corps on 13 June 1991. A Naval Criminal Investigative Service report dated 4 October 1993, indicates that you were identified as an abuser of anabolic steroid drugs. You underwent drug testing on 30 October 1993, the results of which were negative for the presence of steroids. On 12 July 1994, you were notified by your commanding officer of his intention to recommend that you be discharged by reason of misconduct based on your wrongful use, possession, sale and introduction of anabolic steroids, and possession of drug paraphernalia. You were separated from the Marine Corps with a general discharge on 3 October 1994, by reason of misconduct-drug abuse, following the consideration of your case by an administrative discharge board. You were assigned a reenlistment code of RE-4B. On 4 October 1994, you signed an adverse end of service fitness report, in which the reporting senior noted that you had been discharged by reason of misconduct, and indicated that you were not recommended for further military service.

The Board carefully considered your categorical denial of unlawful involvement with

anabolic steroid drugs, but found it inadequate to demonstrate that material error or injustice occurred in your case. In this regard, it concluded that your drug abuse was substantiated by evidence considered during the course of your administrative discharge proceedings. It was not persuaded that the investigation into your misconduct or your discharge processing were prompted by racial bias or prejudice, or the need to "downsize" the Marine Corps. The fact that chemical testing did not reveal the presence of steroids in the sample you provided was not considered probative of your innocence, as steroids are detectable for only a short period of time after use, and their presence can be masked by the user. In addition, it noted there is no prohibition on a discharge by reason of misconduct-drug abuse in those cases where the use has not been substantiated by chemical testing. The Board found that as a discharge by reason of misconduct takes precedence over disability separation or retirement, you were not entitled to undergo disability evaluation proceedings, even though you suffered from a number of conditions which may have rendered you unfit for duty. The Board concluded that given the nature of your misconduct, you were fortunate to receive a general discharge, and that there is no basis for upgrading the characterization of your final period of service to honorable. It was not persuaded that your end of service fitness report was erroneous or unjust, and it could find no basis for recommending that your reenlistment code be changed.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request. It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director